

Message Text

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PAGE 01 OTTAWA 03938 292228Z

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ACTION EUR-12

INFO OCT-01 IO-13 ISO-00 DHA-02 CIAE-00 DODE-00 PM-04 H-02

INR-07 L-03 NSAE-00 NSC-05 PA-01 PRS-01 SP-02 SS-15

USIA-06 /074 W

----- 060030

R 292152Z SEP 76

FM AMEMBASSY OTTAWA

TO SECSTATE WASHDC 1225

INFO USMISSION GENEVA

USMISSION USUN NEW YORK

AMEMBASSY LONDON

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E.O. 11652: N/A

TAGS: SHUM, CA, UN

SUBJ: UN COVENANTS ON HUMAN RIGHTS AND OPTIONAL PROTOCOL

REF: STATE 206848

1. EMBOFF HAD DETAILED DISCUSSION OF REFTEL SUBJECT MATTER WITH ROBERTSON, DIR, UN ECONOMIC AND SOCIAL AFFAIRS DIVISION, DEPARTMENT OF EXTERNAL AFFAIRS. ROBERTSON WAS IN EXTAFF LEGAL DIVISION AT TIME OF CANADIAN RATIFICATION OF COVENANTS AND IS, THEREFORE, WELL-INFORMED ON THE SUBJECT.

2. RATHER THAN KEY RESPONSES TO PARTICULAR QUESTIONS INNPARG 5 REFTEL, EMBASSY PROVIDES BELOW GIST OF ROBERTSON DESCRIPTION OF RATIFICATION. THIS COVERS ALL QUESTIONS WITH EXCEPTION OF (F). ROBERTSON DESCRIPTION AS FOLLOWS:

3. IN CANADA (AS IN THE UK) TREATY MAKING IS A PREROGATIVE RIGHT OF THE GOVERNMENT AND ON WHICH THERE IS NO LEGAL RESPONSIBILITY TO CONSULT

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PAGE 02 OTTAWA 03938 292228Z

WITH PARLIAMENT. TREATY MAKING AUTHORITY IS OB-

TAINED THROUGH THE GOVERNOR-GENERAL IN COUNCIL BY DRAWING ON THE ROYAL PREROGATIVE. IN PRACTICE, HOWEVER, PARLIAMENT IS CONSULTED IN ADVANCE ON CERTAIN CATEGORIES OF TREATIES OF SPECIAL SIGNIFICANCE AND MAY BE ASKED TO APPROVE THE TREATY BY PARLIAMENTARY RESOLUTION. REQUEST FOR PARLIAMENTARY APPROVAL IS, HOWEVER, VERY RARE AND GOC ORDINARILY TABLES TREATIES IN THE HOUSE IN BATCHES OR INDIVIDUALLY IF THE LATTER IS ADVISABLE FOR POLITICAL REASONS.

4. IF TO FULFILL A TREATY OBLIGATION GOC MUST AMEND OR PASS LEGISLATION, GOC DOES SEEK SUCH AMENDMENT OR LEGISLATION FROM THE PARLIAMENT BEFORE SIGNING THE PARTICULAR TREATY. SIMILARLY, GOC WILL SEEK PROVINCIAL LEGISLATION IF SUCH IS REQUIRED TO FULFILL TREATY OBLIGATIONS.

5. IN CASE OF UN COVENANTS ON HUMAN RIGHTS AND OPTIONAL PROTOCOL, AFTER CAREFUL STUDY, GOC DETERMINED THAT NEITHER AMENDMENTS TO EXISTING LEGISLATION NOR NEW LEGISLATION WERE REQUIRED OF THE FEDERAL PARLIAMENT OR OF THE PROVINCIAL GOVERNMENTS. GOC, THEREFORE, SOUGHT NO PRIOR FEDERAL LEGISLATION ALTHOUGH IT DID CONSULT WITH THE PROVINCES BUT AS A POLITICAL EXPEDIENT RATHER THAN A LEGAL NECESSITY.

6. DESPITE NO NECESSITY OF PRIOR PARLIAMENTARY LEGISLATION, BEFORE RATIFYING COVENANT AND PROTOCOL, GOC BELIEVES THAT SUCH LEGISLATION MAY BE NECESSARY "DOWN THE ROAD A BIT" IN ROBERTSON'S WORDS AND GOC DEPARTMENTS, NOTABLY MINISTRY OF JUSTICE, ARE STUDYING THE QUESTION. SIMILARLY, A JOINT FEDERAL/PROVINCIAL COMMITTEE IS STUDYING THE GENERAL QUESTION OF IMPLEMENTATION DOMESTICALLY.

7. DURING CONSULTATIONS WITH PROVINCES PRIOR TO GOC RATIFICATION, ONLY PROBLEM AROSE WITH QUEBEC. QUEBEC SENSITIVITIES REGARDING SOVEREIGNTY ISSUES ARE ACUTE LIMITED OFFICIAL USE

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PAGE 03 OTTAWA 03938 292228Z

AND WELL-KNOWN PARTICULARLY WITH A MATTER LIKE THIS IN WHICH APPLICATION IS PARTIALLY FEDERAL, PARTIALLY PROVINCIAL AND PARTIALLY OVER-LAPPING.

8. PRIMARY QUEBEC CONCERN RELATED TO ASSURANCES THAT IF A PROVINCE WAS ACCUSED OF HUMAN RIGHTS VIOLATION, THAT PROVINCE WOULD BE ABLE TO DEFEND ITSELF. BEGIN FYI: QUEBEC WAS CHARGED

IN JULY, 1975 WITH VIOLATING AN ILO CONVENTION
(SEE OTTAWA'S 2498, 7 JUL 75) AND WAS APPARENTLY
WARY ABOUT OPENING ITSELF UP IN OTHER AREAS. END
FYI. QUEBEC ALSO WANTED TO PARTICIPATE IN
WHATEVER REPORTING PROCEDURES EVELVED UNDER THE
COVENANTS AND PROTOCOL.

9. QUEBEC CONCERNS WERE SATISFIED BY FEDERAL
GOVERNMENT AND CANADIAN RATIFICATION WAS COMPLETED
WITHOUT FEDERAL OR PROVINCIAL LEGISLATION.

10. WITH REFERENCE TO CATEGORY E IN PARA 5
REFTEL, ROBERTSON POINTED OUT THAT SINCE US NOT
ELECTED TO UN HUMAN RIGHTS COMMITTEE DURING
SEPTEMBER 20 VOTE, US WOULD NOT BE ELIGIBLE FOR
ELECTION WITHIN NEXT TWO YEARS. GOC, HE SAID,
FEELS THAT LIKE-MINDED COUNTRIES "CAME OUT PRETTY
WELL IN THE VOTE" WITH ELECTION OF FIVE WESTERN
COUNTRIES PLUS SOME LATIN COUNTRIES. NONETHELESS, HE
SAID THAT GOC WULD, OF COURSE, WELCOME EVENTUAL US
PARTICIPATION SINCE "ILLIBERAL COUNTRIES" CONSTITUTE
SIGNIFICANT PORTION OF COMMITTEE REPRESENTATION.

11. EMBASSY POUCHING TO DEPARTMENT, EUR/CAN,
EXTAFF COMMUNIQUE ISSUED AT TIME OF CANADIAN
ACCESSION TO HUMAN RIGHTS COVENANTS, EXTAFF
COMMUNIQUE ISSUED AFTER ELECTION OF TARNOPOLSKY AS
MEMBER OF UN HUMAN RIGHTS COMMITTEE, AND BRIEF
EXTAFF DOCUMENT ON BACKGROUND OF THAT COMMITTEE.
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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: POLICIES, TREATY RATIFICATION, HUMAN RIGHTS, AGREEMENTS, TREATY ENTRY INTO FORCE
Control Number: n/a
Copy: SINGLE
Draft Date: 29 SEP 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: ellisoob
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976OTTAWA03938
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D760369-0045
From: OTTAWA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t1976097/aaaaafxn.tel
Line Count: 145
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION EUR
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 76 STATE 206848
Review Action: RELEASED, APPROVED
Review Authority: ellisoob
Review Comment: n/a
Review Content Flags:
Review Date: 13 APR 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <13 APR 2004 by greeneet>; APPROVED <16 AUG 2004 by ellisoob>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: UN COVENANTS ON HUMAN RIGHTS AND OPTIONAL PROTOCOL
TAGS: SHUM, CA, UN
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006